

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554**

In the Matter of	)	
	)	
	)	
Definition of Radio Markets	)	MM Docket No. 00-244
	)	
	)	

TO: The Commission

**REPLY COMMENTS**

Jimcar, Inc.,<sup>1</sup> by its attorneys, hereby submits its reply comments<sup>2</sup> in response to the Comments filed by Rick L. Murphy on February 26, 2001 in the instant rule making proceeding. Mr. Murphy's Comments advocates a modification of the Commission's definition of a radio market for radio ownership purposes to account for *all* radio services available in a particular market, including all satellite digital audio radio service channels ("SDARS Channels"). Jimcar, Inc. fully supports the proposal made by Mr. Murphy.

1. There is no question that SDARS Channels will compete with existing terrestrial radio stations for listeners and advertising revenue. Once SDARS Channels are launched, existing local terrestrial radio stations will have increased competition from 200 SDARS Channels in any given radio market.

2. As Mr. Murphy notes in his Comments, no one entity may own 100 radio stations under the Commission's current radio ownership rules (47 C.F.R. 73.3555). While current

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<sup>1</sup> Jimcar, Inc. and its affiliated corporations are licensees of radio stations in Wyoming.

<sup>2</sup> The NPRM established February 12, 2001 as the deadline for filing reply comments. This deadline was extended to March 13, 2001 by the Commission. *Order Extending Time*, DA 01-71, MM Docket No. 00-244, released January 10, 2001. Therefore, the instant reply comments are timely filed.

licensees of SDARS are not restricted by any limits on the number of SDARS Channels that they may provide, licensees of terrestrial radio stations are limited to the ownership of eight commercial stations in a radio market with 45 or more commercial stations. There is an obvious inconsistency between the terrestrial radio ownership limits and the non-existent limits on the number of SDARS Channels available in a particular radio market. Fairness dictates that the Commission resolve this inconsistency.

3. Further compounding this inconsistency, there are no restrictions on the ownership of SDARS Channels by terrestrial broadcasters. For instance, Clear Channel Communications, Inc. is named as a strategic investor in XM Satellite Radio (*See* XM Satellite Radio's website at: <http://www.xmsr.com/js/corpinfo/ownership.asp>). Clear Channel Communications, Inc. is an attributable owner of approximately 1,170 terrestrial radio stations nationwide, including combinations of multiple stations in 47 of the top 50 markets (*See* Clear Channel Communications, Inc.'s website at: <http://www.clearchannel.com/radio/index.html>). Once SDARS Channels go on the air, stations competing with Clear Channel Communications, Inc. stations will find themselves not just competing with Clear Channel Communications, Inc., as an entity in the market owning up to eight stations, but rather with Clear Channel Communications, Inc. as an entity with between 100 and 108 radio stations due to its attributable ownership interests in both terrestrial and SDARS Channels stations.

4. If terrestrial radio stations are to be given a fighting chance to compete with SDARS Channels, the Commission must place owners of terrestrial radio stations on as much of an equal footing as possible with owners of SDARS Channels. Given that the Commission is restricted by the statutory ownership limits set forth in Section 202(b)(1) of the Telecommunications Act of 1996, the Commission must count all SDARS Channels available in

a particular radio market as stations within the market for purposes of determining how many radio stations are in that market. Although this may not completely resolve the inconsistency between the ownership limits on terrestrial radio stations and the non-existent limits on SDARS Channels, it will at least permit more radio markets to be classified as a radio market with 45 or more commercial radio stations and thereby allow one entity to own or operate up to eight commercial radio stations in that market. 47 U.S.C. 202(b)(1)(A); 47 C.F.R. 73.3555(a)(1)(i). Increasing the number of terrestrial radio stations that a particular entity may own will permit that entity to benefit from the economies of scale by, for example, consolidating staff and using common studios. This will permit that entity to apply the saved resources towards improving and/or adding more local programming, which will allow it to more effectively compete with the imminent institution of dual 100 channel services from SDARS channels.

WHEREFORE, for the foregoing reasons, the Commission should count all satellite digital audio service channels available in a particular radio market as stations within the market for purposes of determining how many radio stations are in that market.

Respectfully Submitted,

**JIMCAR, INC.**

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